IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3962 OF 2005

Abdul Majid Dawood Patel & 14 Ors ...Applicants

Versus

The State of Maharashtra ...Respondents

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Mr. N.V. Pradhan i/b Ms. S.D. Khot, Advocate for Applicants

Mr. Shekhar Ingawale i/b Mr. Y.M. Kakhwa for Respondent No.2.

Mr. V.B. Konde Deshmukh, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 9TH AUGUST, 2005

P. C.:-

1. Heard the learned advocate for the applicants, the learned advocate for the respondent No.2 i.e. original complainant and the learned A.P.P. for the State.

2. The applicants are seeking anticipatory bail in C.R.No.72 of 2005 of Taloja police station. The said case is under Section 147, 148, 149, 429 and 395 of I.P.C.

3. Briefly stated, it is the prosecution case that on 8.6.2005 at about 4.15 p.m. all the applicants

alongwith some other accused persons entered into the shop of the complainant i.e. Chemist shop and they caused extensive damage to the property in the said shop as well as they took away the money which was kept in the said shop. On account of this a complaint came to be registered.

4. The learned counsel for the applicants has submitted that it is the prosecution case that in the said incident an amount of Rs.18,000/- came to be robbed and the said amount i.e. Rs.18,000/- has been deposited by the applicants before the investigating agency. Thus, it is submitted that the custody of the applicant would now not be required as nothing is to be recovered at the instance of the applicants. It is further submitted that no person has been injured in the said incident. The offence is only in relation to the property. The learned A.P.P. and Mr. Ingawale has submitted that the loss is not just limited to the cash of Rs.18,000/- but the loss to the property in the said shop is about Rs.70,000/-. The names of all the applicants is reflected in the F.I.R. as well as the fact that all of them entered in the shop and caused damage to the property in the said shop is clearly mentioned in the complaint.

5. The learned A.P.P. has further submitted that after the present incident four NCs have been

registered at the instance of the complainant and his relatives. In all the NCs the complainant and his relatives have stated the specific names of some of the present applicants who have threatened them. The first NC being No. 262 of 2005 dated 16.6.2005 is lodged by one Malan Mansoor Patel who is the relative of the complainant and also a witness in the present case. In the said N.C. it is stated that the present applicant Nos. 1, 4, and 6 have threatened him. The second NC being No. 273 of 2005 dated 19.6.2005 is lodged by Mohd. Hanif Abdul Karim Patel, a relative of the complainant. In the said NC it is stated that the present applicant Nos. 3, 5, 7 and 12 have threatened him. The third NC being NC No. 290 of 2005 dated 3.7.3005 is lodged by the complainant. Therein it is stated that the present applicant Nos. 1 and 4 have threatened him. On 13.7.2005 the complainant preferred an application to the police station stating therein that the applicant Nos. 1,4, 7, 8 and 12 have threatened him. On 3.8.2005 Mr. Siraj Abdul Rajjak Patel i.e. the uncle of the complainant in the present case, has lodged NC with CBD police station stating therein that the applicant Nos. 1, 4 and 8 have threatened him.

6. Thus,it is seen that after the FIR came to be lodged, the applicant Nos. 1, 2, 3,4,5,7,8 and 12

have threatened either the complainant or the witnesses in the present case. In the present case, investigation is going on and the charge sheet is yet to be filed. Looking to the above facts, I do not think that this is a fit case to grant anticipatory bail to applicant Nos.1,2,3,4,5,7,8 and 12.

7. As far as the applicant Nos. 6,9,13 and 14 are concerned, it is an admitted fact that they all are young boys and all of them are college students. There is no allegations of tampering or threatening by them to the complainant or his relatives. So also, there is no allegations of any threatening or tempering by the applicant Nos. 10, 11 and 15. As far as these seven applicants are concerned, it is an admitted fact that they have co-operated with the investigating agency. In this view of the matter, I am inclined to grant anticipatory bail to these seven applicants.

8. In the event of arrest each of the applicants i.e. applicant Nos. 6, 9, 10, 11, 13, 14 and 15 i.e. Salman Abdul Rasid Patel, Mannan Abdul Rasid Patel, Abdul Gafoor Daud Patel, Abdul Latif Dawood Patel, Salman Sharfuddin Patel, Ramiz Shafruddin Patel and Mohd. Rafiq Nainuddin Patel to be released on bail in the sum Rs.10,000/- with one or two sureties to make up the said amount. These

applicants shall report to the concerned police station as and when required.

9. At this stage the learned counsel for the applicants prays that some time may be granted to the rest of the applicants whose application for anticipatory bail has been rejected, to surrender before the learned J.M.F.C. Panvel. In view of the above, the applicant Nos. 1,2,3,4,5,7,8 and 12 are granted time upto 24.8.2005 to surrender before the concerned Magistrate.

10. Application is disposed of.

11. Office to issue an authenticated copy of this order to the parties.

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